

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TIC-THE INDUSTRIAL COMPANY,  
WYOMING, INC., and PIONEER TRAIL  
ENERGY L.L.C.,

Plaintiff,

v.

FACTORY MUTUAL INSURANCE  
COMPANY, and IMA of KANSAS, INC.

Defendants.

**Case No. CI 4:10-cv-003153**

**ORDER DISMISSING PIONEER TRAIL'S  
CLAIMS WITHOUT PREJUDICE**

Pioneer Trail Energy, LLC ("Pioneer"), pursuant to Fed. Rule Civ. P. 41(a)(2) has filed a Motion to Dismiss Without Prejudice Co-Plaintiff's Causes of Action in Complaint (Filing No. 73) and the parties entered into a stipulation concerning that motion (Filing No 77). Pursuant to the terms of that stipulation, Pioneer was required to make any objections, deliver a privilege log as applicable and produce documents to all parties that would otherwise be responsive to the subpoena issued by TIC to BioFuel Energy, L.L.C. as if TIC continued to pursue compliance with the subpoena and to produce the documents identified in the initial disclosures made by Pioneer prior to December 23, 2011. Also, the Defendants had until December 30, 2011, to notify the court if they believed that Pioneer did not make a good faith effort to comply with production aspects of the stipulation. If Defendants did not so notify the court, the parties agreed that Pioneer could be dismissed without prejudice pursuant to FCRP 41(a)(2) on December 31, 2011. Pioneer Trail filed a certificate of service indicating it complied with the production requirements of the stipulation (Filing No. 85) and no Defendant has filed an objection or notice concerning the production.

NOW THEREFORE the court grants Pioneer's motion and Pioneer's complaint and all causes of action contained therein are dismissed without prejudice with each party to pay his or its own costs. The complete record is waived.

Dated: January 10, 2012.

BY THE COURT

s/ Warren K. Urbom

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United States Senior District Judge